

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: STRYKER LFIT V40 FEMORAL
HEAD PRODUCTS LIABILITY LITIGATION*

MDL No. 17-md-2768-IT

Case No.: 1:21-cv-11839

This Document Relates To:
EDNA RIGGINS

PLAINTIFF,

v.

HOWMEDICA OSTEONICS CORP.

DEFENDANT.

**SHORT FORM COMPLAINT
AND JURY DEMAND**

1. Plaintiff, EDNA RIGGINS, states and brings this civil action in MDL No. 2768, entitled *In Re: Stryker LFIT V40 Femoral Head Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by this Court's Amended Case Management Order #2, dated October 23, 2017.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, EDNA RIGGINS, is a resident and citizen of Faulkner county, Arkansas and claims damages as set forth below.

3. Venue of this case is appropriate in the United States District Court, Eastern District of Arkansas. Plaintiff states that but for the Order permitting directly filing into the District of Massachusetts pursuant to Amended Case Management Order #2, Plaintiff would have filed in the United States District Court, Eastern District of

Arkansas. Therefore, Plaintiff respectfully requests that at the time of transfer of this action back to the trial court for further proceedings that this case be transferred to the above referenced District Court.

4. Plaintiff brings this action:



On behalf of herself;

FACTUAL ALLEGATIONS

Allegations as to Left-side Implant/Explant Surgery:

5. Plaintiff, EDNA RIGGINS, was implanted with an LFIT Anatomic CoCr V40 Femoral Head on her LEFT hip on or about December 27, 2007, at the Conway Regional Health System, by Dr. Robert McCarron, MD.

6. Plaintiff, EDNA RIGGINS, was implanted with the following femoral stem during the December 27, 2007 surgery:



Accolade TMZF

☐

Accolade II

☐

Other _____ (Femoral Stem)

7. Plaintiff had the femoral head at issue explanted on October 1, 2020, at Baptist Health Medical Center, in Conway, AR, by Dr. Jeffrey B. Stambough, MD.

ALLEGATIONS AS TO INJURIES

8. (a) Plaintiff, EDNA RIGGINS, claims damages as a result of (check all that are applicable):



INJURY TO HERSELF

☐

INJURY TO THE PERSON REPRESENTED

WRONGFUL DEATH

SURVIVORSHIP ACTION



ECONOMIC LOSS

9. Plaintiff has suffered injuries as a result of implantation of the Device at issue manufactured by the Defendants as shall be fully set forth in Plaintiff's anticipated Amended Complaint, as well as in Plaintiff's Fact Sheet and other responsive documents provided to the Defendant and are incorporated by reference herein.

10. Plaintiff has suffered injuries as a result of the explantation of the Devices at issue manufactured by the Defendants as shall be fully set forth in Plaintiff's anticipated Amended Complaint, as well as in Plaintiff's Fact Sheet and other responsive documents provided to the Defendant and are incorporated by reference herein.

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

12. Plaintiff could not have known that the injuries he suffered were as a result of a defect in the Device at issue until after the date the Device was recalled from the market and the Plaintiff came to learn of the recall.

13. In addition, Plaintiff could not have known that he was injured by excessive levels of chromium and cobalt until after the date he had his blood drawn and he was advised of the results of said blood-work and the fact that those blood work abnormalities were attributable to a defect in the Device at issue.

CASE-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

14. The following claims and allegations are asserted by Plaintiff, and are

herein adopted by reference (check all that are applicable):

- ☒ COUNT I - NEGLIGENCE;
- ☒ COUNT II - NEGLIGENCE PER SE;
- ☒ COUNT III - STRICT PRODUCTS LIABILITY - DEFECTIVE DESIGN;
- ☒ COUNT IV - STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT;
- ☒ COUNT V - STRICT PRODUCTS LIABILITY- FAILURE TO WARN;
- ☒ COUNT VI - BREACH OF EXPRESS WARRANTY;
- ☒ COUNT VII- BREACH OF WARRANTY AS TO MERCHANTABILITY;
- ☒ COUNT VIII - BREACH OF IMPLIED WARRANTIES;
- ☐ COUNT IX - VIOLATION OF MASSACHUSETTS CONSUMER PROTECTION ACT
- ☒ COUNT X – VIOLATION OF CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER STATE LAW;
- ☒ COUNT XI - NEGLIGENT MISREPRESENTATION
- ☐ COUNT XII - LOSS OF CONSORTIUM
- ☒ COUNT XIII – UNJUST ENRICHMENT
- ☐ COUNT XIV – WRONGFUL DEATH
- ☒ COUNT XV- PUNITIVE DAMAGES

In addition to the above, Plaintiff, EDNA RIGGINS, assert the following additional causes of action under applicable state law: N/A.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, EDNA RIGGINS, prays for judgment against Defendants as follows:

1. For compensatory damages requested and according to proof;
2. For all applicable statutory damages of the state whose laws will govern this action;
3. For an award of attorneys' fees and costs;
4. For prejudgment interest and costs of suit;
5. For restitution and disgorgement of profits; and,
6. For such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff, EDNA RIGGINS, hereby demands a trial by jury as to all claims in this action.

Dated: November 12, 2021

Respectfully submitted,

/s/ Joseph A. Osborne

Joseph A. Osborne, Esq.

Florida Bar No.: 880043

Osborne & Francis Law Firm PLLC

433 Plaza Real, Suite 271

Boca Raton, FL 33432

Tel: (561) 293-2600;

Fax: (561) 923-8100

Email: josborne@realtoughlawyers.com

Douglass A. Kreis, Esq.
Aylstock, Witkin, Kreis & Overholtz, PLLC
17 East Main Street, Suite 200
Pensacola, Florida 32502
Tel: (850) 202-1010
Fax: (850) 916-7449
Email: DKreis@awkolaw.com

Attorneys for Plaintiff